

US Environmental Protection Agency
1200 Pennsylvania Ave. NW
Washington, DC 20460
ATTN: Ben Larson

January 8, 2014

RE: [FRL-9920-28-OAR] Fuels and Fuel Additives: Request for substantiation of confidentiality claims for Blue Flint Ethanol, LLC which has submitted information considered confidential business information under the Renewable Fuel Program.

Dear Mr. Larson:

Please consider the following comments in response to the Federal Register request for substantiation of confidentiality claims made by Blue Flint Ethanol, LLC when submitting Renewable Fuel Standard quarterly reports and transactional information into the EPA's Moderated Transaction System.

Blue Flint Ethanol, LLC (BFE) is an ethanol biorefinery located near Underwood, ND. The facility produces about 67 million gallons of ethanol per year. BFE markets E85 to much of ND along with modified and dry distillers grains, and crude corn oil.

To our knowledge there has not been an option to mark only portions of data submissions as confidential and thus have considered all information in RFS submittals and EMTS data as confidential. Due to the limited time to formulate response and the enormous burden associated with substantiation of each item in EPA's possession, we have chosen only to respond to the most obvious financial items requiring confidential treatment. We believe protection of information of this nature is common and fail to understand how releasing this information would achieve the intended outcome of the freedom of information act request.

Any difference between items substantiated in this submittal and substantiations by other similar entities is indicative of the time demanded to formulate a response and does not imply we do not hold certain non substantiated information as confidential. We also do not agree with language in the Federal Register notice which indicates any items excluded from this response shall not be considered business confidential. For the purposes of addressing the requested bracketing of confidential information on all documents submitted to EPA since 2011, we are not submitting attachments and maintain that none of this information should be released without further notice.

Showings of information considered confidential:

Critical information that must be considered business confidential includes transactional information contained in the EPA's Moderated Transaction System. Specific items contained in section C of the Federal Register notice which are addressed below include:

Company Identifying Information

- c. Trading partner ID—The four digit EPA assigned ID of the company identified as the trading partner;
- d. Trading partner Name—The name of the company identified as the trading partner.
- r. Price per RIN [conditional—required if Price per Gallon is not reported]—Price per individual RIN;
- s. Price per Gallon [conditional— required if Price per RIN is not reported]—Price per individual gallon;

Responses to request for comment questions:

1. For what period of time do you request that the information be maintained as confidential, *e.g.*, until a certain date, until the occurrence of a specified event, or permanently? If the occurrence of a specific event will eliminate the need for confidentiality, please specify that event.

Information should be considered confidential permanently.

2. Information submitted to the EPA becomes stale over time. Why should the information you claim as confidential be for the time period specified in your answer to question #1?

Information should be considered confidential permanently. See answer to question #7.

3. What measures have you taken to protect the information claimed as confidential? Have you disclosed the information to anyone other than a governmental body or someone who is bound by an agreement not to disclose the information further? If so, why should the information be considered confidential?

Confidentiality is a priority with this data. It is not disclosed to any party other than where required for auditing or consultation; and then only done with strict non disclosure agreements in place.

4. Is the information contained in any publicly available material such as the Internet, publicly available databases, promotional publications, annual reports, or articles? If so, specify which.

It is not publically available.

5. Is there any means by which a member of the public could obtain access to the information? Is the information of a kind that you would customarily not release to the public?

There are no means the general public could otherwise obtain this data. We are unaware of any privately held business that would disclose financial trading information to the public.

6. Has any governmental body made a determination as to the confidentiality of the information? If so, please attach a copy of the determination.

We are unaware of any governmental ruling on the confidentiality of this information.

7. For each item or category of information claimed as confidential, *explain with specificity* why release of the information is likely to cause substantial harm to your competitive position. Explain the specific nature of those harmful effects, why they should be viewed as substantial, and the causal relationship between disclosure and such harmful effects. How could your competitors make use of this information to your detriment?



Publically disclosing the price per gallon of fuel or price per RIN along with trading counterparties would create substantial harm to our business. There are a small number of major purchasers of ethanol for blending. If this CBI were released counterparties would be have an unfair price negotiation tactic as they would be capable of viewing pricing for all other counterparties. In essence, publically disclosed price information allows collusion and price manipulation, ultimately damaging margins of ethanol production facilities.

Most ethanol is transported by railroad. The cost to ship product a particular market is a key factor in determining where product will move. Releasing this CBI would allow railroad companies to deduce which markets had best profitability to an ethanol facility. Consequentially railroads may then increase transportation rates to those markets. This would certainly be detrimental to the margins of a production facility. In addition, our company and business partners have invested time and capital in developing markets and building infrastructure. Competitors access to pricing information may allow them incrementally undercut long standing contracts or off take agreements and hinder recovery of market development expenditures.

8. Do you assert that the information is submitted on a voluntary or a mandatory basis? Please explain the reason for your assertion. If you assert that the information is voluntarily submitted information, please explain whether the information is the kind that would customarily not be released to the public.

This information is submitted on a mandatory basis and would not be in the possession of EPA if it were not for the reporting requirements of the Renewable Fuel Standard.

9. Whether you assert the information as voluntary or involuntary, please address why disclosure of the information would tend to lessen the availability to the EPA of similar information in the future.

Disclosure of this information will certainly result in challenges obtaining similar information in any future EPA regulated program.

10. If you believe any information to be (a) trade secret(s), please so state and explain the reason for your belief. Please attach copies of those pages containing such information with brackets around the text that you claim to be (a) trade secret(s).

No trade secret information in items listed above.

11. Explain any other issue you deem relevant (including, if pertinent, reasons why you believe that the information you claim to be CBI is not emission data or effluent data).

Clearly the information listed above cannot be considered emission or effluent data. It is confidential financial information including pricing and counterparties.

Sincerely,

Adam C Dunlop

Director- Regulatory and Strategic Planning
Midwest AgEnergy Group DBA Blue Flint Ethanol